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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,542	01/12/2001	Andreas Boos	4481-026	9392

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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EXAMINER

CRAVER, CHARLES R

ART UNIT PAPER NUMBER

2682

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/758,542

Applicant(s)

BOOS ET AL.

Examiner

Charles R Craver

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. Claims 1, 12, 13 and 15 are objected to because of the following informalities:
2. Claims 1, 12, 13 and 15 recite "assigning one of the transmitter holding positions to the transmitter received in the assigned transmitter holding position" in lines 5-6. The second part of that limitation appears to state that the assignment had already occurred. The examiner recommends using the language of e.g. claim 7 instead. Appropriate correction is required.

### ***Claim Rejections - 35 USC 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claim 15, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP ' 2173.05(d).

***Claim Rejections - 35 USC ' 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, 5, 7, 11 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurz, EP 0 864 293.

**Claims 1, 7, 12 and 13:** Kurz discloses a receiver unit for a telemetry system comprising

a plurality of transmitter PC Card holding insertion slots (FIG 1) each adapted for receiving a card (20, 30, 40) for wireless communication with the receiver (50, col 4 lines 1-28), and

means for assigning one of the slots to the card received in the slot (col 4 line 30- col 5 line 18).

**Claims 2 and 11:** since the assignment is meant for a card and a slot, it would be inherent that the assignment would stay with said card until a new assignment is made.

**Claims 4 and 5:** Kurz discloses that the slot comprises contact means for providing a data communication path between the device and the transceiver, independent of the wireless communications (col 4 lines 29-44, col 5 lines 19-23).

**Claim 14:** Kurz discloses a transmitter unit for a telemetry system with a receiver comprising a plurality of transmitter PC Card holding insertion slots (FIG 1) each adapted for receiving a card (20, 30, 40) for wireless communication with the receiver

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(50, col 4 lines 1-28) and means for assigning one of the slots to the card received in the slot (col 4 line 30-col 5 line 18).

**Claim 15:** Kurz discloses a telemetry system comprising

a receiver unit for a telemetry system comprising a plurality of transmitter PC Card holding insertion slots (FIG 1) each adapted for receiving a card (20, 30, 40) for wireless communication with the receiver (50, col 4 lines 1-28) and means for assigning one of the slots to the card received in the slot (col 4 line 30-col 5 line 18), and a transmitter for use in said card for said insertion slot.

***Claim Rejections - 35 USC ' 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurz as applied to claim 1 above.

**Claims 3 and 6:** While Kurz discloses applicant's invention of claim 1, as shown above, the combined invention fails to disclose a warning signal when a card is mis-inserted; however, it was notoriously well-known in the art at the time of the invention to utilize such when a card is inserted or removed, as shown by the teachings of Richman et al, col 49 lines 27-48. As such the examiner takes Official Notice of such a feature. Note also that there were at the time of the invention several different kinds of slots in

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use in computers, and as such the insertion of one kind of card into an incompatible slot would produce an error; as such it would have been obvious to one of ordinary skill in the art to utilize such a warning to note the wrong kind of card or one not assigned to the slot so as to enable proper function of the apparatus.

**Claim 16:** using a picture or sound to show the proper insertion technique would have been an obvious modification to one of ordinary skill in the art to allow the device to be used properly, especially by those without technical skills.

10. Claims 8, 9, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurz as applied to claim 7 above.

please see the rejection of claim 3, 6 and 16 above.

### ***Response to Arguments***

11. Applicant's arguments filed 1-14-04 have been fully considered but they are not persuasive.

Regarding *Kurz*, the examiner upholds the rejection above. First, it is asserted that *Kurz* fails to disclose or suggest the applicant's limitation "assigning one of the transmitter holding positions to the transmitter received in the assigned transmitter holding position". This is taught in *Kurz* in col 4 line 29-col 5 line 10, called the *contact phase*, wherein the transmitter is brought into contact with the receiver at a specific slot, and the receiver and transmitter cooperate to assign a free channel for communicating between the specific transmitter and the specific receiver. *Kurz* discloses that the assignment may occur due to data from the receiver or the transmitter, see col 5 lines

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11-18. In this case, the examiner reads such as an assignment of that slot to that particular transmitter, as no other transmitter is communicating with the receiver via said slot. While the examiner notes the utility of the instant application's teaching allowing the display in the same order of arrangement (remarks page 7 lines 24-26), such a limitation is not present in the claims; although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 2, for example, such would inherently occur if the transmitter is left in the assigned slot, since no other transmitter would be able to use that slot until the transmitter is removed to be put in another slot (assignment suspended/canceled), or to make room for another transmitter (a new assignment).

Regarding the rejection of claims 3, 6 and 8, the examiner upholds the obviousness of providing a warning for a mis-entered transmitter. Note with regards to *Kurz* that the transmitter and receiver may comprise "one or more contact areas", see col 4 lines 45-54. In the case of e.g. one contact area for both the transmitter and receiver slot, if the transmitter were to be inserted backwards, no contact would be made and the invention would not be operable. This case, since an assignment would not have occurred, is read by the examiner as the transmitter being inserted into a slot to which it is not assigned. Providing a warning that such had occurred would have been an obvious modification, as shown by Richman, since if a transmitter were incorrectly inserted in the above case, the assignment would not occur, a problem especially of note in *Kurz*, since medical telemetry is taught. If such an invention were

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to operate in a hospital environment, lives could depend on the proper connection of a particular transmitter and receiver. In such a case, the transmitter would merely need to be turned around, which would have to be conveyed to the user as noted in the rejection of e.g. claim 9 above, and would inherently convey the proper holding position as said transmitter would already be in the slot to which it will ultimately be assigned.

For the aforementioned reasons, the examiner upholds the rejection under *Kurz*.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**



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(703) 872-9314, (for formal communications intended for entry)

Or:

(703) 872-9314 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington VA, sixth floor (receptionist).

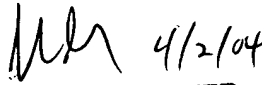
14. Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Charles Craver whose telephone number is (703) 305-  
3965.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Vivian Chin, can be reached on (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the Group receptionist whose telephone number is  
(703) 305-4700.

cc

C. Craver  
2 April 2004

 4/2/04  
**CHARLES CRAVER**  
**PATENT EXAMINER**